

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT L. SANFORD,

Plaintiff,

v.

GAVIN NEWSOM, *et al.*,

Defendants.

Case No. 1:22-cv-01100-ADA-CDB (PC)

ORDER WITHDRAWING FINDINGS AND
RECOMMENDATIONS

(Doc. 23)

ORDER GRANTING EXTENSION OF
TIME TO RESPOND TO SECOND
SCREENING ORDER

(Docs. 22, 24)

FOURTEEN (14) DAY DEADLINE

Plaintiff Robert L. Sanford is a state prisoner proceeding pro se in this civil rights action proceeding under 42 U.S.C. § 1983. On July 13, 2023, Plaintiff filed an unsigned fourth amended complaint¹ alleging he contracted COVID-19 due to Defendants' deliberate indifference to a substantial risk of serious harm to Plaintiff's health in violation of the Eighth Amendment. (Doc. 20.) The Court screened the fourth amended complaint and found it fails to state a cognizable Eighth Amendment claim against any defendant. (Doc. 22.) The Court granted Plaintiff leave to file a fifth amended complaint within twenty-one days and advised: **"If Plaintiff fails to comply with this Order, the Court will recommend dismissal of this action"**

¹ Plaintiff filed this action in the Superior Court for Kern County. Defendants removed the action to this Court on the third amended complaint. (Doc. 1.) Therefore, the fourth amended complaint was the first time he filed an amended complaint in this Court. (Doc. 21.)

1 **for failure to state a claim.** (*Id.* at 1–2.)

2 More than twenty-one days passed and Plaintiff failed to comply with the Court’s order
3 by filing a fifth amended complaint. The Court thereafter entered findings and a
4 recommendation to dismiss the action for Plaintiff’s failure to state a claim and failure to obey a
5 court order. (Doc. 23).

6 On October 10, 2023, Plaintiff filed objections in which he requests 45 days within
7 which to file a response to the Court’s screening order. (Doc. 24). Therein, Plaintiff represents
8 he is housed at a camp with no law library and that his documents were misplaced and disposed
9 of in connection with his transition.

10 In light of Plaintiff’s objections, it is HEREBY ORDERED that the Court’s findings and
11 recommendations of September 25, 2023, (Doc. 23), are WITHDRAWN.

12 It is FURTHER ORDERED **within forty-five (45) days** from the date of service of this
13 Order, Plaintiff shall file a fifth amended complaint, limited to **a total of 25 pages**, curing the
14 deficiencies identified in the Court’s earlier screening order (Doc. 22) or, in the alternative, a
15 notice of voluntary dismissal.

16 **If Plaintiff fails to comply with this Order, the Court will recommend dismissal of**
17 **this action for failure to state a claim.**

18 IT IS SO ORDERED.

19 Dated: **October 13, 2023**

20 
UNITED STATES MAGISTRATE JUDGE